

Date: September 15, 2011

To: Thomas J. Bonfield, City Manager

Through: Theodore L. Voorhees, Deputy City Manager

From: Jose L. Lopez, Sr., Chief of Police

Subject: **Use of Federal Asset Forfeiture Funds and State Tax Distribution Funds in an amount not to exceed \$35,000.00 to pay for a Firearms Analyst Apprenticeship Program**

Executive Summary

The Police Department proposes to use Controlled Substance Tax Distribution Funds and Federal Asset Forfeiture Funds to purchase the second and final year of training for a Firearms Analyst Apprenticeship Program. The training will allow the Durham Police Department to operate a firearms laboratory independent of the North Carolina State Crime Lab which constantly has extended backlog of firearms testing.

Recommendation

The Administration recommends that the City Council authorize the use of Asset Forfeiture Funds and Controlled Substance Tax Distribution Funds in an amount not to exceed **\$35,000.00** to pay for Firearms Analyst training.

Background

In 2010, the Durham City Council approved the use of Federal Asset Forfeiture Funds and State Tax Distribution Funds to fund an independent firearms testing laboratory. Included in that funding was the first of two installment payments to fund the training for a Firearms Analyst position. This position would allow the Durham Police Department to test firearms and testify as an expert witness in court independently of the North Carolina State Crime Laboratory (formerly known as the State Bureau of Investigation Crime Laboratory).

The Durham Police Department recovers approximately 700 firearms per year that are either illegally possessed or have been used in the commission of a crime. Once these firearms are recovered by officers, the Police Department has the ability to test fire these weapons for ballistics information. That ballistics information is fed into a database that identifies whether that weapon has ever been used in a gun crime where ballistics evidence was recovered. The Police Department has had success in discovering that guns recovered and test fired had previously been used in the commission of a gun crime, thus allowing the department to advance an investigation which later led to an arrest in some cases.

Currently all ballistics testing is completed by submitting the weapon to the North Carolina State Crime Lab Firearms Laboratory. The Firearms Testing Section of the Laboratory is the most backlogged section in the agency. The Durham Police Department currently has weapons at the lab that were submitted in January 2009 and are still waiting to be tested. The North Carolina State Crime Lab currently services approximately 500 law enforcement agencies across the state and Durham is subject to their prioritization policies.

The Durham Police Department desires to dramatically decrease the turnaround time for firearms testing by operating a firearms testing laboratory independent of the State Crime Lab. It is believed that all firearms testing can be conducted within 30 days of receipt of the weapon as opposed to months, or in some cases years, if the testing is done by the Forensics Unit of the Durham Police Department.

In 2009 the Durham Police Department opened its new Forensics Unit and crime laboratory. When the Crime Lab was built, space was identified for a future firearms laboratory. Due to budget restraints and no budgeted Firearms Analyst position in existence, construction of the firearms laboratory was deferred. The Durham Police Department has now nearly completed the construction of the firearms laboratory and has budgeted and identified a Firearms Analyst position.

Issues/Analysis

Firearms Analyst Apprenticeship Training (50% of total cost) - \$35,000.00

The renowned governing body for forensic qualification and certification in Firearms and Toolmarks examination is the Association of Firearms and Toolmarks Examiners (AFTE.) One of the current requirements for applying for certification includes 18 months of apprenticeship training with a certified Firearms/Toolmarks Examiner. A new program taught by Firearms Examiner Don Mikko provides this service by having the Trainer (Mikko) respond to the host agency on a weekly basis for the hands-on portion of the training. The remainder is conducted through online and self-study/practice by the student. This training replaces the previous requirement of having the student study directly under a certified Examiner at the Examiner's laboratory; often requiring relocation, travel and other related expenses for the student's agency. This previous option resulted in the loss of work hours for over a year by the student agency and had made the requirement very difficult for individuals and the law enforcement/forensic community to meet. This home agency option will allow the Firearms Analysts to complete work duties while simultaneously completing the apprenticeship training requirements. Once the training is complete, the Firearms Analysts will qualify for membership through AFTE and can apply for certification after three additional years of practice. The qualification to Firearms Examiner allows for complete self-sufficiency of the DPD Firearms Laboratory. Certification will help meet the future goal of accreditation. The total cost of the on-site training is \$70,000.00. The City of Durham has already approved and paid for half of the total cost. This proposal would complete the funding for Firearms Analyst training.

Alternatives

There are currently no other funding sources available to purchase this training. The only other alternative would be to not fund the training and continue relying on the State Bureau of Investigation for all firearms testing. With the existing backlog at the State Bureau of Investigations Firearms Laboratory and the inability to impact the prioritization of firearms testing, we do not recommend this alternative.

Financial Impact

The City's resources will not be impacted because the Police Department will use its Controlled Substance Tax Distribution Funds and Federal Asset Forfeiture Funds to make the proposed purchases. Controlled Substance Tax Distribution Funds, sometimes called "Tax Stamp Funds", are received from the State of North Carolina/Office of the State Controller through the North Carolina Department of Internal Revenue Service. This is a result of the Department seizing drug dealers' assets for their failure to pay sales and excise taxes on illegal drugs. Federal Asset Forfeiture Funds are funds the Police Department receives from the federal government as a result of assets seized during drug arrests/investigations.

SDBE Summary

This is simply a request to use funds for the purposes indicated. The Purchasing Department will follow SDBE guidelines and proper procurement procedures in making the actual purchases.

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